



**U.S. Department of Justice**

Environment and Natural Resources Division

DJ # 90-5-1-1-11293

*Environmental Enforcement Section  
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***FRE 408 Settlement Communications***

November 5, 2015

**BY CERTIFIED U.S. MAIL AND ELECTRONIC MAIL**

Wynetta Massey  
City Attorney, City of Colorado Springs  
30 S. Nevada Avenue, Suite 501  
Colorado Springs, Colorado 80903

Re: Clean Water Act Violations at City of Colorado Springs, Colorado MS4

Dear Ms. Massey:

The purpose of this letter is to notify you that the U.S. Environmental Protection Agency ("EPA") has referred claims to the U.S. Department of Justice for potential legal action against the City of Colorado Springs, Colorado ("City") for violations of Section 402 of the Clean Water Act, 33 U.S.C. § 1342. The State of Colorado has joined with the United States in pursuing enforcement of this matter.

Inspections of the City's municipal separate storm water system ("MS4") completed by EPA and the State of Colorado February 4-7, 2013, and by EPA August 18-19, 2015, identified serious and ongoing comprehensive Colorado Discharge Permit System Stormwater Management Program violations, including violations of each of the individual program components of the City's MS4 Permit No. COS-000004 (i.e. commercial/residential, illicit discharges, industrial facilities, construction sites, pollution prevention/good housekeeping for municipal operations, and monitoring). Examples include but are not limited to the City's continuous failure to: ensure that minimum technical requirements for new development and redevelopment post-construction structural controls are submitted to the City, reviewed and approved by the City, installed as required, and properly operated and maintained; control discharges from construction sites; control and respond to illicit discharges; and to operate and maintain the MS4 to control discharges of pollutants from the MS4 to the maximum extent practicable.

I would like to extend to the City the opportunity to discuss settlement of these violations with the United States and the State of Colorado. Any settlement of this matter must be in the form of a Consent Decree entered by the United States District Court for the District of

Colorado and must include an enforceable schedule for the performance of injunctive relief to address the violations as well as payment of an appropriate civil penalty for this case. 33 U.S.C. §§ 1319(b) and (d). To facilitate these discussions, I propose convening a meeting with representatives of the City and its MS4 staff to discuss these matters, including how the City is addressing the permit violations throughout its MS4. Meanwhile, please sign the enclosed Tolling Agreement to suspend the running of any statute of limitations that may be applicable to the United States' and State of Colorado's claims. Please provide the original executed Tolling Agreement to me by November 10, 2015.

If you have any questions, please do not hesitate to call me at (303) 844-1392, or my colleague Stacy Coleman at (303) 844-7240. Thank you for your prompt attention to this matter and I look forward to hearing from you in the near future.

Sincerely,



Heidi Hoffman  
Trial Attorney  
Environmental Enforcement Section

Enclosure

Copied by Electronic Mail:

Tim Mitros  
Engineering Development Review and Stormwater Manager  
City of Colorado Springs  
30 S. Nevada, Suite 502  
Colorado Springs, CO 80903

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